

RETURN DATE: August 8, 2023	:	SUPERIOR COURT
	:	JUDICIAL DISTRICT OF
SWEETSPOT STAMFORD, LLC, and	:	STAMFORD/NORWALK
A&F HIGH RIDGE, LLC	:	
Plaintiffs	:	AT STAMFORD
	:	
v.	:	
	:	
ZONING BOARD OF	:	
THE CITY OF STAMFORD	:	July 12, 2023
Defendant	:	

**APPEAL FROM THE DECISION OF THE
ZONING BOARD OF THE CITY OF STAMFORD**

TO THE SUPERIOR COURT, to be held at Stamford, in and for the Judicial District of Stamford/Norwalk on August 8, 2023, come **SWEETSPOT STAMFORD, LLC** (the “Plaintiff Sweetspot”), and **A&F HIGH RIDGE, LLC** (collectively the “Plaintiffs”), appealing from a decision of the **ZONING BOARD OF THE CITY OF STAMFORD** (the “Board” or “Defendant Zoning Board”) complains and says as follows:

1. The Plaintiff A&F High Ridge, LLC, is a Connecticut limited liability company with offices at 111 High Ridge Road, Stamford, Connecticut, 06905, and is the owner of property located at and known as 111-123 High Ridge Road, Stamford, Connecticut (the “Property”).
2. The Plaintiff Sweetspot is a Connecticut limited liability company with offices at 17 Faye Lane, Mount Pleasant, South Carolina, 29464-6626, and is the prospective tenant of approximately 2,412± square feet of office/retail space on the Property.
3. The Defendant Zoning Board is the agency with authority to enforce the Zoning Regulations of the City of Stamford (the “Regulations”) and the duty to hear and decide special permit applications pursuant to Public Acts 1923, C. 279 and the Connecticut General Statutes.

4. The Plaintiff A&F High Ridge, LLC is statutorily aggrieved in that it is the owner of the Property that is the subject of this Appeal.

5. The Plaintiff Sweetspot is statutorily aggrieved in that it is the prospective lessee of a portion of the Property that is the subject of this Appeal and was the applicant for special permit approval, the denial of which is the subject of this Appeal.

6. The Property has 1.06± acres of land area and is located on the east side of High Ridge Road in the C-N (Neighborhood Business District) Zone.

7. The Property is currently improved with a 31,846± square foot, two-story, multitenant commercial building and a 14,310±, three-story, multitenant commercial building.

8. CT Plant Based Compassionate Care, LLC (“CT Plant”) was awarded a provisional cannabis cultivation license (License No. ACCE. 0000014) by the Connecticut Department of Consumer Protection pursuant to Section 21a-420(o) of the Connecticut Responsible and Equitable Regulation of Adult-Use Cannabis Act (“RERACA”).

9. Section 5 of Public Act 22-103, which amended and supplemented RERACA, provides that a cultivator licensed under Section 21a-420(o) of RERACA may create two equity joint ventures in any cannabis establishment licensed business other than cultivation.

10. CT Plant formed the Plaintiff Sweetspot as an equity joint venture for the purpose of opening a retail cannabis dispensary in Stamford, Connecticut.

11. The Plaintiff Sweetspot desired to operate a hybrid cannabis retailer on

the portion of the Property it sought to lease from the Plaintiff A&F High Ridge, LLC.

12. The Regulations do not specifically identify hybrid cannabis retailers as a use.

13. Pursuant to Section 148(c) RERACA, “Unless otherwise provided for by a municipality through its zoning regulations or ordinances, a cannabis establishment shall be zoned as if for any other similar use, other than a cannabis establishment, would be zoned.”

14. Because the Regulations do not currently provide regulations for hybrid cannabis retailers, the Land Use Bureau of the City of Stamford, in consultation with the Law Department of the City of Stamford, has determined that the most similar use is Medical Marijuana Dispensary.

15. Section 5.E. of the Regulations provides that “Medical Marijuana Dispensaries are allowed by Special Permit approval of the Zoning Board only within certain commercial and manufacturing Zoning Districts of the City of Stamford, as shown in Appendix A, Table II of these Regulations.”

16. Appendix A, Table II of the Regulations provides that Medical Marijuana Dispensaries are allowed by Special Permit approval in the C-N Zone, the zoning district in which the Property is located.

17. On March 15, 2023, the Plaintiffs filed an application (the “Application”) requesting Special Permit approval to operate a hybrid cannabis retailer on the portion of the Property to be leased by the Plaintiff Sweetspot and to be exempt from sidewalk requirements contained in Section 12.K. of the Regulations.

18. In the Application, the Plaintiffs detailed how their proposal complied with all relevant zoning regulations and the special permit standards contained in the Regulations.

19. The Plaintiffs submitted with the Application a letter countersigned by James Lunney, Chief Zoning Enforcement Officer for the City of Stamford, confirming that the Property is legally nonconforming as to parking and the Application complied with the applicable parking requirements.

20. The Plaintiffs also submitted with the Application a traffic study (the “Traffic Study”) prepared by SLR Consulting (“SLR”).

21. As part of the Traffic Study, SLR evaluated eight (8) nearby intersections to estimate site-generated traffic volumes and the impact on future parking and traffic operations.

22. SLR concluded in the Traffic Study that the number of vehicle trips created by the proposed use could be accommodated by the surrounding roadway system.

23. SLR also concluded that the Property contained enough parking to accommodate the proposed use.

24. In accordance with the Regulations, the Application was referred to the Planning Board; the Engineering Bureau; the Transportation, Traffic, and Parking Bureau; the Fire Marshall; and the Environmental Protection Board for the City of Stamford.

25. The Engineering Bureau; the Transportation, Traffic, and Parking Bureau;

the Fire Marshall; and the Environmental Protection Board for the City of Stamford did not object to the Application moving forward.

26. On April 11, 2023, the Planning Board for the City of Stamford held a meeting in which it found that the Application was consistent with Master Plan Category 7 and voted to recommend approval of the Application by the Zoning Board.

27. Two (2) members of the Planning Board voted in favor of the Application, zero (0) members voted in opposition, and three (3) members abstained from voting.

28. The Planning Board follows the Robert's Rules of Parliamentary Procedure according to which approval of an action requires more than half of the members present and voting to approve and excludes abstentions.

29. In a memorandum dated April 18, 2023, Attorney Dana B. Lee of the Law Department of the City of Stamford (the "Law Department") clarified that the item was considered approved, given that there were two votes, and both were in favor of the Application.

30. On April 19, 2023, Plaintiff Sweetspot and its representatives conducted a voluntary presentation and meeting with the neighbors at the Stamford Hilton.

31. A public hearing on the Application was scheduled to commence on May 22, 2023.

32. On May 4, 2023, in accordance with the Regulations, the Plaintiffs posted signs on the Property with details about the public hearing.

33. On May 5, 2023, in accordance with the Regulations, counsel for the

Plaintiffs submitted a signed affidavit certifying that the signs had been posted along with photographs of the posted signs.

34. On May 10, 2023, pursuant to § C6-40-11 of the Charter of the City of Stamford (the “Charter”), the Plaintiffs filed a copy of the Application in the Office of the Town Clerk.

35. On May 10, 2023, pursuant to Conn. Gen. Stat. § 8-7d and § C6-40-11 of the Charter, legal notice of the public hearing was published in the Stamford Advocate, a newspaper having general circulation in the City of Stamford.

36. On May 11, 2023, in accordance with the Regulations, the Plaintiffs, via certificate of mailing, mailed letters to the owners of all properties within 100 feet of the Property notifying them of the public hearing.¹

37. On May 17, 2023, pursuant to Conn. Gen. Stat. § 8-7d and § C6-40-11 of the Charter, a second legal notice of the public hearing was published in the Stamford Advocate.

38. Written comments in favor of and in opposition to the Application were received by the Land Use Bureau and entered into the public record for the Application.

39. On May 19, 2023, the Stamford Land Use Bureau issued a staff report stating that the proposed site of the hybrid cannabis retailer met the zoning standards for medical marijuana dispensaries.

40. On May 22, 2023, the Defendant Zoning Board held a meeting in which it

¹To ensure full notice, letters were actually mailed to property owners within almost 500’ of the Property, notwithstanding the 100’ distance requirement.

opened the public hearing on the Application.

41. The Plaintiff Sweetspot and its representatives made a presentation regarding the Application.

42. Members of the Defendant Zoning Board asked the Plaintiff Sweetspot questions about the Application and heard comments from the public in support of and in opposition to the Application.

43. The Defendant Zoning Board then closed the public hearing on the application.

44. On June 5, 2023, the Defendant Zoning Board held a meeting in which it continued the Application to its next meeting.

45. On June 26, 2023, the Defendant Zoning Board held a meeting in which it deliberated on the Application.

46. During its deliberations, members of the Defendant Zoning Board expressed concerns about the number of existing cannabis dispensaries in Stamford and stated that they desired to place a moratorium on new cannabis dispensaries.

47. There are currently two (2) cannabis dispensaries in Stamford, one of which is located in the C-N Zone, that have received Special Permit approval from the Defendant Zoning Board.

48. Stamford does not have a moratorium in place preventing the Defendant Zoning Board from approving Special Permit applications for new cannabis dispensaries, nor do the Regulations place a cap on the maximum number of cannabis dispensaries permitted in Stamford.

49. During its deliberations, members of the Defendant Zoning Board expressed concerns about the proximity of the Property to a private school and tutoring establishment.

50. Stamford does not have a separation distance requirement for schools or tutoring establishments.

51. During its deliberations, the Chair of the Defendant Zoning Board noted that there are two (2) operating dispensaries in Stamford, and that the Defendant Zoning Board had seen no evidence that there have been traffic issues, had not heard complaints from the Stamford Police Department about any instances of criminal activity, and had not heard about any instances of harm to neighbors at either dispensary.

52. The Defendant Zoning Board voted to deny the Application.

53. The Defendant Zoning Board did not issue a written decision on the Application.

54. Legal notice of the decision of the Defendant Zoning Board was published in the Stamford Advocate on June 29, 2023.

55. In denying the Application, the Defendant Zoning Board acted illegally, arbitrarily, and in abuse of the discretion vested in it because, among other things:

- a. the record does not support the Defendant Zoning Board's stated reasons for denial;
- b. the Defendant Zoning Board denied the application not in the exercise of reasonable judgment but rather as the result of predisposition and/or predetermination;

- c. the Defendant Zoning Board's decision to deny the Application was not supported by facts or applicable law;
- d. the Defendant Zoning Board's decision to deny the Application violates the uniformity requirement of Conn. Gen. Stat. § 8-2 and violates § 8-2(d)(10) because it is based on the district's character.
- e. the Defendant Zoning Board's decision to deny the Application is contrary to the Regulations and the laws of the State regarding zoning applications seeking approval to operate hybrid cannabis retailers; and
- f. the Defendant Zoning Board's decision to deny the Application was not based on the Regulations as they currently exist.

WHEREFORE, the Plaintiffs appeal from the denial of the Application by the Defendant Zoning Board and claim that their appeal should be sustained and the Application should be approved. The Plaintiffs further pray that the Court should grant such other relief, legal or equitable, as justice may require.

Dated at Stamford, Connecticut on this 12th day of July 2023.

PLAINTIFFS
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A&F HIGH RIDGE, LLC

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